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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,840	10/23/2001	Xiaobo Fan	P14992US1	9171

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EXAMINER

GREENE, DANIEL L

ART UNIT PAPER NUMBER

3621

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p>Office Action Summary</p>	Application No. 09/682,840	Applicant(s) FAN, XIAOBO	
	Examiner Daniel L. Greene	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) .
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/11/2004 have been fully considered but they are not persuasive. The Examiner reviewed paragraph 0012 on the description, which the Applicant claims "clearly states the deficiency of the existing solution to avoid bursty accounting messaging traffic between a call server and a AAA server." The designated paragraph effectively paraphrased the advantages but did not provide information on why staggering billing information is unique, original and advances the technological art involved.

2. Claims 2,3, and 10 have been cancelled.

3.

4. Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jansen et al. U.S. Patent 6,243,450 [Jensen], and further in view of Rainis et al. U.S. Patent 6,310,873 [Rainis].**

3.

As per claims 1, 8, and 15:

The recitation that, " A method for sending accounting data, A telecommunication system comprising, and A call server, comprising, has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method, a system, an apparatus, etc. and the portion of the claim following the preamble is a self-contained description of the method or the system, etc., not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951)

Jensen and Rainis discloses the claimed invention, except for the step of sending from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate. Since the applicant has not disclosed that sending from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Jensen and Rainis will perform the invention as claimed by the applicant with any means, method, or product to provide the an accounting record of the call incorporating different rates for different times during the length of the call. The Applicant in their Specification effectively states that the purpose

of their invention is to provide a more uniform and controlled manner in presenting billing data to the AAA server. Both Jensen and Rainis utilize a Payment Manager providing for the uniform and controlled manner in presenting billing data.

Jensen discloses the claimed invention except for the tracking and incrementing the time slices of the conversation. Jensen does disclose the use of timers and applying rate information. Rainis teaches that it is known in the art to provide "heartbeat packets" that provide the running cost of the call. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bill generation of Jensen with the "heartbeat packets" of Rainis, to provide a means for incrementing cost of a call.

As per the aforementioned modifiers, Jensen discloses:

during an IP session, collecting accounting data at a first billing rate in the call server. Col. 9, lines 20-35.

following a change of billing rate applicable to the IP sessions from the first billing rate to a second billing rate, storing the collected accounting data in memory of the call server. Col. 9, lines 20-35, Col. 11, lines 1-67.

following an occurrence of an accounting event in the call server, detecting that the call server comprises the collected accounting data pending transmission to the AAA server, the collected accounting data comprising at least an activity parameter indicative of an activity during a past first portion of the IP session, Col. 12, lines 34-67.

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upon detection that the call server comprises the collected accounting data pending transmission to the AAA server, sending from the call server to the AAA server an Accounting Stop message comprising the collected accounting data; Col. 11, lines 1-67.

sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to the second billing rate. Col. 11, lines 1-67.

As per claims 4 and 11:

Jensen further discloses:

wherein the change of the billing rate is triggered by an expiration of a Time of Day Timer of the call server. Col. 12, lines 1-67.

As per claims 5, 12, and 17:

Jensen further discloses:

wherein the accounting event is an accounting stop event indicative of a termination of the IP session, Col. 10, lines 40-60.

Jensen and Rainis discloses the claimed invention, except for the step of sending from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate. Since the applicant has not disclosed that sending

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from the call server to the AAA server an Accounting Stop message comprising the accounting data and sending from the call server to the AAA server an Accounting Start message indicative of a start of a second portion of the IP session that is to be charged according to a second billing rate solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Jensen and Rainis will perform the invention as claimed by the applicant with any means, method, or product to provide the an accounting record of the call incorporating different rates for different times during the length of the call. The Applicant in their Specification effectively states that the purpose of their invention is to provide a more uniform and controlled manner in presenting billing data to the AAA server. Both Jensen and Rainis utilize a Payment Manager providing for the uniform and controlled manner in presenting billing data.

As per claims 6, 13, and 18:

Jensen does not expressly show wherein the accounting event is a first accounting interim event. However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The accounting event is a first accounting interim event step would be performed the same regardless of the accounting interim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381,

1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the accounting event is a first accounting interim event because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. The accounting event will occur regardless if it was a first, second, etc. interim event.

As per claims 7, 14, and 19:

Jensen does not expressly show wherein following an occurrence of a next account interim event in the call server during the IP session, sending from the call server to the AAA server a second Account Interim message comprising at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate.

However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The accounting event following an occurrence of a next account interim event in the call server during the IP session, sending from the call server to the AAA server a second Account Interim message comprising at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate step would be performed the same regardless of the accounting interim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms

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of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform following an occurrence of a next account interim event in the call server during the IP session, sending from the call server to the AAA server a second Account Interim message comprising at least an activity parameter indicative of an activity during the second portion of the IP session that is to be charged according to the second billing rate because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. The accounting event will occur regardless if it was a first, second, etc. interim event.

As per claim 9:

Jensen further discloses:

following a change of a billing rate applicable to the IP session, from the first billing rate to the second billing rate, collecting the accounting data from the call Server. Col. 11, lines 1-67.

As per claim 16:

Jensen further discloses:

wherein before determining if any accounting data is pending transmission to the AAA server, the call server stores the accounting data in the memory following a

change of a billing rate applicable to the IP session, from the first billing rate to the second billing rate. Col. 9-10, lines 1-67.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

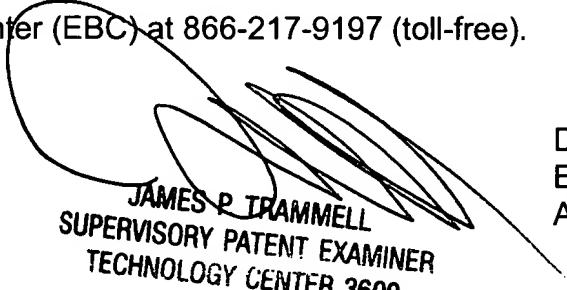
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Daniel L. Greene
Examiner
Art Unit 3621

1/13/2005